

**C. REMARKS****Status of the Claims**

Claims 1, 2, 4-9, 11-15, and 17-20 are currently present in the Application, and claims 1, 8, and 14 are independent claims. Claims 1, 2, 4, 8, 9, 11, 14, 15, and 17 have been amended, claims 3, 10, and 16 have been cancelled, and no claims have been added.

**Examiner Interview**

Applicants wish to thank the Examiner and the Primary Examiner for the courtesy extended to Applicants' attorney during a telephone interview on Tuesday, June 6, 2006. During the interview, Applicants' attorney discussed the cited prior art with regard to Applicants' independent claims. Applicants attorney pointed out that the cited prior art, in particular the Skinner reference, does not teach or suggest disagreeing with an evaluation and then sending a rework request to the creator of the evaluation in response to the disagreement. The Examiner suggested amending the claims to make it clear that there is a disagreement and that the rework response is sent in response to the disagreement. Applicants have made such amendments in this Response. No agreement was reached on the claims during the interview.

**Drawings**

Applicants wish to thank the Examiner for accepting Applicants' formal drawings, filed with the Application on January 8, 2002.

**Double Patenting**

Claims 1-2, 4-9, 11-15, and 17-20 are provisionally rejected on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claims 1-20 of co-pending Application No. 10/042,415. Applicants have included a terminal disclaimer with this Response, and therefore respectfully request that the Examiner withdraw the double patenting rejection.

**Claim Rejections - Alleged Anticipation Under 35 U.S.C. § 102**

Claims 1, 4-5, 7-8, 11-14, 17-18, and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Office of Personnel Management (OPM), Restructuring Information Handbook Module 3, Reduction in Force, June 1998 (hereinafter OPM). Applicants respectfully traverse the rejections under 35 U.S.C. § 102.

Applicants have amended independent claim 1 to include limitations previously found in dependent claim 3, and have thus cancelled claim 3. Similarly, Applicants have amended independent claims 8 and 14 to include limitations previously found in dependent claims 10 and 16, respectively, and have thus cancelled claims 10 and 16. Based on these amendments, Applicants respectfully submit that the rejections under 35 U.S.C. § 102 are now moot, and Applicants respectfully request that the Examiner withdraw the rejections under 35 U.S.C. § 102.

**Claim Rejections - Alleged Obviousness Under 35 U.S.C. § 103**

Claims 2, 9, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over OPM in view of "IT Confidential" by John Soat, InformationWeek, July 9, 2001 (hereinafter Soat). Claims 3, 10, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over OPM in view of "Are you really managing your corporate resources?" by Robert Skinner, Management Accounting, August 1998 (hereinafter Skinner). Claims 6 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable

over OPM. Applicants respectfully traverse the rejections under 35 U.S.C. § 103.

As noted above, Applicants have amended independent claim 1 to include limitations previously found in dependent claim 3, and have thus cancelled claim 3. Similarly, Applicants have amended independent claims 8 and 14 to include limitations previously found in dependent claims 10 and 16, respectively, and have thus cancelled claims 10 and 16. Therefore, Applicants will discuss independent claims 1, 8, and 14 with regard to the OPM and Skinner references (Skinner being used to reject claims 3, 10, and 16 as filed).

OPM is a handbook used by the U.S. Office of Personnel Management in order to provide guidelines and information for reduction in force procedures. Skinner is an article on corporate resource management that purports to improve an organization's ability to "manage as well as maximize returns from its employees, assets and budgeting processes" (see Abstract). Applicants respectfully submit that neither OPM nor Skinner, nor a combination of the two, teaches or suggests all the elements of Applicants' independent claims.

Applicants teach and claim a method, information handling system, and computer program product for reviewing resource reduction decisions. Using amended, independent claim 1 as an exemplary claim, Applicants' independent claims include the following elements:

- receiving a skill group identifier;
- retrieving data records for a plurality of employees, wherein each data record includes the skill group identifier and an evaluation;

- comparing the retrieved data records based upon the corresponding evaluations;
- identifying one or more surplus employees based upon the comparisons;
- analyzing a selected evaluation prior to the comparing;
- disagreeing with the selected evaluation; and
- sending a rework request to a creator of the selected evaluation in response to disagreeing with the selected evaluation.

The Examiner cites OPM at page 14, section d as disclosing analyzing a selected evaluation prior to the comparing (see Office Action, page 9, lines 6-8). Applicants respectfully disagree. The cited section of OPM discusses calculating retention service credit for employees, based upon numerous factors, including an employee's last three annual performance ratings. However, OPM does not teach or suggest "analyzing a selected evaluation" as taught and claimed by Applicants. There is no "analyzing" disclosed by OPM, and certainly no "analyzing" of a particular performance evaluation. OPM is simply performing a calculation, based upon a formula, in order to determine an employee's retention service credit. **Calculating** retention service credit is not the same as **analyzing** an evaluation, and therefore, Applicants respectfully submit that OPM does not teach or suggest "analyzing a selected evaluation prior to the comparing," as taught and claimed by Applicants in independent claims 1, 8, and 14.

The Examiner admits that OPM does not disclose disagreeing with the evaluation, and then sending a rework request to a

creator of the evaluation in response to disagreeing with the evaluation (see Office Action, page 9, lines 8-9), and indeed OPM does not disclose these elements. However, the Examiner then cites Skinner at page 6, paragraphs 7-8 as disclosing these elements. Applicants respectfully disagree. The cited section of Skinner discusses a two-stage employee review process where a manager and an employee have an initial meeting. The manager brings a draft review to the meeting and the employee brings a self-review to the meeting. The employee presents his self-review while the manager takes notes and asks questions. The manager then sets up a time for a full review. During the time between the initial meeting and the full review meeting, the manager completes the review of the employee. According to Skinner, "This two-stage process ensures that the employee feels his views have been heard. At the same time, it reduces the odds of a serious miscommunication between the manager and employee" (Skinner, page 6, paragraphs 7-8).

While interesting, the two-stage evaluation process described by Skinner does not teach or suggest Applicants' claim elements. Skinner does not disclose "disagreeing with the selected evaluation," rather, Skinner discloses a manager and an employee discussing a potential evaluation together. There is no agreeing or disagreeing, rather Skinner states that the manager "takes notes and asks questions that will help in the formal review." Therefore, Skinner does not teach or suggest "disagreeing with the selected evaluation," as taught and claimed by Applicants. Further, Skinner does not teach or suggest "sending a rework request to a creator of the selected evaluation in response to disagreeing with the selected evaluation." As already discussed, there is no agreement or disagreement in Skinner, merely a two-way discussion between a

manager and an employee. Skinner also does not disclose "sending a rework request," as taught and claimed by Applicants. Skinner does not teach or suggest "sending" any type of request, and certainly does not teach or suggest "sending a rework request." Skinner merely discloses that in the interim period between the initial meeting and the final review, "the manager finishes the review" (page 6, paragraphs 7-8). ***Finishing a review*** is not the same as ***"sending a rework request . . . in response to disagreeing with the selected evaluation,"*** as taught and claimed by Applicants.

Based on the above, Applicants respectfully submit that neither OPM nor Skinner nor a combination of the two teaches or suggests "analyzing a selected evaluation prior to the comparing," "disagreeing with the selected evaluation," and "sending a rework request to a creator of the selected evaluation in response to disagreeing with the selected evaluation," as taught and claimed by Applicants in independent claims 1, 8, and 14. Therefore, Applicants respectfully request that independent claims 1, 8, and 14, and the claims which depend from them are patentable over the prior art, and respectfully request that they be allowed.

Claim 2 depends from independent claim 1 and is patentable for at least the reasons discussed above. Similarly, claims 9 and 15 depend from independent claims 8 and 14, respectively, and are also patentable for at least the reasons discussed above. Notwithstanding the patentability of claims 2, 9, and 15, Applicants would like to further discuss these claims. Using claim 2 as an exemplary claim, claims 2, 9, and 15 include the following additional elements:

- sorting the retrieved data records based on the corresponding evaluations, the sorting resulting in a list of sorted data records with a high end and a low end;
- retrieving a surplus percentage corresponding to the skill group identifier;
- multiplying the surplus percentage by the number of retrieved data records creating a surplus number;
- selecting the surplus number of employees from the low end of the list of sorted data records.

Applicants respectfully submit that none of the cited prior art teaches or suggests retrieving a surplus percentage that is multiplied by the number of retrieved data records in order to create a surplus number. Further, none of the cited prior art, either alone or in combination, teaches or suggests then selecting the surplus number of employees from the low end of a list of sorted data records, as taught and claimed by Applicants. The Examiner admits that OPM does not disclose using a percentage to determine a surplus number (see Office Action, page 8, lines 13-14), and indeed OPM does not. However, the Examiner then cites Soat at paragraphs 4-5 as teaching this aspect of Applicants' claims. Applicants respectfully disagree. Soat merely notes that a company laid off about 400 people, which happened to be about 9% of that company's workforce. Note that Soat is reporting about the effects of a layoff, after the layoff has taken place. Soat does not disclose anything regarding how the company decided which employees to lay off.

In particular, neither OPM nor Soat teaches or suggests "receiving a surplus percentage corresponding to the skill group

identifier." Simply taking note, after the fact, of the percentage of employees that were laid off, is not the same as receiving a surplus percentage that corresponds to a skill group identifier. Applicants respectfully submit that the cited prior art does not teach or suggest "receiving a surplus percentage corresponding to the skill group identifier," as taught and claimed by Applicants in claims 2, 9, and 15.

Applicants further submit that neither OPM nor Soat teaches or suggests "multiplying the surplus percentage by the number of retrieved data records creating a surplus number," and then "selecting the surplus number of employees from the low end of the list of sorted data records" as taught and claimed by Applicants. Neither OPM nor Soat discloses a "surplus percentage," and so neither can possibly be said to **multiply the surplus percentage** by the number of retrieved data records to create a surplus number. As discussed above, Soat is merely reporting about the effects of a layoff, **after** the layoff has taken place. Soat says nothing about multiplying a surplus percentage by the number of retrieved data records in order to create a surplus number, and then selecting the surplus number of employees from the low end of the list of sorted data records. Therefore, neither Soat nor OPM discloses "**selecting** the surplus number of employees from the low end of the list of sorted data records," as taught and claimed by Applicants in claims 2, 9, and 15.

Based on the above, Applicants respectfully submit that claims 2, 9, and 15 are patentable over OPM in view of Soat, and respectfully request that they be issued.

Claim 7 depends from independent claim 1 and is patentable for at least the reasons discussed above. Similarly, claims 13 and 20 depend from independent claims 8 and 14, respectively,



and are also patentable for at least the reasons discussed above. Notwithstanding the patentability of claims 7, 13, and 20, Applicants would like to further discuss these claims. Using claim 7 as an exemplary claim, claims 7, 13, and 20 include the following additional elements:

- comparing the surplus employees' data records with data records corresponding to non-surplus employees;
- creating one or more statistical analyses based on the comparison, wherein the statistical analyses include one or more protected employment factors;
- assessing the statistical analyses using one or more applicable laws; and
- modifying the group of identified surplus employees based on the assessment.

The Examiner cites OPM as disclosing these elements of claims 7, 13, and 20. Applicants respectfully submit that OPM does not teach or suggest creating statistical analyses based on comparing surplus employees' data records with data records corresponding to non-surplus employees, and then assessing the statistical analyses using applicable laws, as taught and claimed by Applicants. The Examiner cites OPM at page 13 as disclosing creating statistical analyses (see Office Action, page 7, lines 5-8). However, the cited section of OPM merely discusses tenure groups and veterans' preference subgroups. Applicants are at a loss to understand where in this section of OPM, or anywhere in OPM for that matter, there is any "creating" of "statistical analyses." OPM does not appear to create any type of statistical analyses.

The Examiner further cites OPM at page 13 as disclosing "assessing the statistical analyses using one or more applicable laws." While OPM does mention the Dual Compensation Act of 1964, again Applicants are at a loss to see how this relates in any way to "assessing the statistical analyses," as taught and claimed by Applicants. OPM does not appear to create or assess any type of statistical analyses, as taught and claimed by Applicants.

For the reasons set forth above, Applicants respectfully submit that claims 7, 13, and 20 are patentable over the prior art of record, and respectfully request that they be allowed.

### Conclusion

As a result of the foregoing, it is asserted by Applicants that the remaining claims in the Application are in condition for allowance, and Applicants respectfully request an early allowance of such claims.

Applicants respectfully request that the Examiner contact the Applicants' attorney listed below if the Examiner believes that such a discussion would be helpful in resolving any remaining questions or issues related to this Application.

Respectfully submitted,

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